APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/578,750	05/25/2000	Bryce Allen Curtis	AUS9-2000-0214-US1	6565

7590   06/13/2003

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EXAMINER
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ART UNIT	PAPER NUMBER
2122	

DATE MAILED: 06/13/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _3_ MONTH(S) FROM
THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed
  after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any
  earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on _25 May 2000_ .

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is
    closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☐ Claim(s) _____ is/are pending in the application.

   4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) _1-39_ is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

   Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)☐ The proposed drawing correction filed on _____ is: a)☐ approved b)☐ disapproved by the Examiner.

   If approved, corrected drawings are required in reply to this Office action.

12)☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

   a)☐ All b)☐ Some * c)☐ None of:

   1.☐ Certified copies of the priority documents have been received.

   2.☐ Certified copies of the priority documents have been received in Application No. _____ .

   3.☐ Copies of the certified copies of the priority documents have been received in this National Stage
       application from the International Bureau (PCT Rule 17.2(a)).

   * See the attached detailed Office action for a list of the certified copies not received.

14)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

   a) ☐ The translation of the foreign language provisional application has been received.

15)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ .

4) ☐ Interview Summary (PTO-413) Paper No(s). _____ .

5) ☐ Notice of Informal Patent Application (PTO-152)

6) ☐ Other: .

DETAILED ACTION

1. This action is in response to the application filed 05/25/00

   Claims 1-39 have been examined.

2.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1-7,10-16,20-25,28,29,33,36, & 37 are rejected under 35 U.S.C. 103(a) as being

unpatentable over Smith et al. USPN 6,477,703 B1 in view of Chamberlain USPN 6,427,227 B1.

Regarding claims, 1 Smith discloses, a method for updating code, the method

comprising: providing an update to a plurality of versions of a program, wherein the program is

updated by an installer program and a plurality of versions of the installer program exist (Smith,

fig. 1, 110,fig.3, 330); determining whether a version of the installer program is incorrect with

respect to the update (fig.3, 355,360); responsive to the version of the installer program being

incorrect, updating the installer program from files in the update; and installing the update in

the program with the updated installer program(fig.5, 540). Smith doesn't explicitly disclose

updating an installer program. However, Chamberlain does discloses updating the installer

program (fig3, 31,37). Therefore it would have been obvious to one of ordinary skills in the art

at the time the invention was made to modify Smith with Chamberlain to attain the instant

claimed invention because, "no software program is perfect and the release of numerous software patches to fix specific problems, and the release of new versions to fix or upgrade major problems are the norm" (Smith, 1:20-23).

Regarding claim 2 the method as recited in claim 1, wherein a determination that the version of the installer is older than the update indicates that the version of the installer program is incorrect (Smith, 5:10-15).

Regarding claim 3 the method as recited in claim 1, wherein a determination that the version of the installer is more recent than the update indicates that the version of the installer program is incorrect (5:15-20 for recent see recommended superceded by installed patch, and 50-55, also see user and deselecting conflicting patches 5:48-51) .

Regarding claim 4 the method as recited in claim 1, wherein the version of the installer program is determined from a single one of a plurality of files contained within the installer program.

Regarding claim 5 the method as recited in claim 1, wherein the updating step comprises:

extracting installer files from the installer program into a directory (Chamberlain 10, 50-55);

overwriting selected files from the installer program with a corresponding updated file extracted from the update (Chamberlain, fig. 7, 705,707, 709); and

packaging the updated files and remaining installer files into an updated installer program (Chamberlain, 10:49-53, see updating registry to reflect proper state after patching).

Regarding claim 6 the method as recited in claim 5, wherein the packaging step comprises compressing the updated files and remaining installer files to produce an updated installer program (Chamberlain 1: 22-24).

Regarding claim 7 the method as recited in claim 1, wherein the installer program comprises an install toolkit (fig.2, 37 see installer for toolkit), and the update comprises an update to the install toolkit (fig.2, 213, see path package).

Regarding claim 10 see reasoning in claim 1.

Regarding claim 11 see reasoning in claim 2.

Regarding claim 12 see reasoning in claim 3.

Regarding claim 13 see reasoning in claim 4.

Regarding claim 14 see reasoning in claim 5.

Regarding claim 15 see reasoning in claim 6.

Regarding claim 16 see reasoning in claim 7.

Regarding claim 19 see reasoning in claim 1.

Regarding claim 20 see reasoning in claim 2.

Regarding claim 21 see reasoning in claim 3.

Regarding claim 22 see reasoning in claim 4.

Regarding claim 23 see reasoning in claim 5.

Regarding claim 24 see reasoning in claim 6.

Regarding claim 25 see reasoning in claim 7.

Regarding claim 28 see reasoning in claim 1.

Regarding claim 29 see reasoning in claim 5.

Regarding claim 33 see reasoning in claim 5.

Regarding claim 36 see reasoning in claim 1.

Regarding claim 37 see reasoning in claim 5.

Claims 8,9,17,18,26,27,30,31,34,35,38, & 39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Smith et al. USPN 6,477,703 B1 in view of Chamberlain USPN 6,427,227 B1 and further in view of Forbes et al. USPN 6,381,742.

Regarding claim 8 Smith as modified discloses all the claimed limitations as applied in claim 1. Smith as modified doesn't explicitly disclose update written in an object-oriented language. However, Forbes does disclose this feature, wherein the installer program and the update are written in an object-oriented programming language (9:25-27). Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine Smith as modified with Forbes to implement the instant claimed invention because, using object oriented languages in writing programs is a common practice (9:25) and makes programming more up to date and compatible.

Regards to claim 9 the method as recited in claim 1, wherein the installer program comprises a java install toolkit and the update comprises an update to the java install toolkit

(Forbes, 13:57-60 for update to the java install see manifest).

Regarding claim 17 see reasoning in claim 8.

Regarding claim 18 see reasoning in claim 9.

Regarding claim 26 see reasoning in claim 8.

Regarding claim 27 see reasoning in claim 9.

Regarding claim 30 see reasoning in claim 8.

Regarding claim 31 see reasoning in claim 9.

Regarding claim 34 see reasoning in claim 8.

Regarding claim 35 see reasoning in claim 9.

Regarding claim 38 see reasoning in claim 8.

Regarding claim 39 see reasoning in claim 9.

Correspondence Information

Any inquires concerning this communication or earlier communications from the examiner should be directed to Chuck O. Kendall who may be reached via telephone at (703) 308-6608. The examiner can normally be reached Monday through Friday between 8:00 A.M. and 5:00 P.M. est.
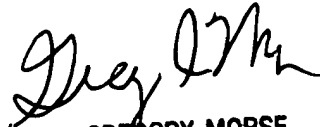
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, *Greg Morse can be* reached at *(703) 308-4789.*

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is *(703) 305-3900.*

For facsimile (fax) send to 703-7467239 official and 703-7467240 draft

Chuck O. Kendall

Software Engineer Patent Examiner
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